

To Whom it May Concern:

On Monday, Oct. 5, the Urban Forestry Board held a special meeting to discuss the proposed Heritage Tree Ordinance (HTO). We have previously voted to support the ordinance; however, we are concerned about certain aspects of the current draft and would like to offer our suggestions for how the ordinance might be improved.

For those who may be wondering why this ordinance should be passed, please allow me a quick synopsis of the value of such an ordinance. Trees are pretty and nice, but the impetus for this ordinance is not simply about aesthetics. Trees provide infrastructure services that the City must provide; if we lose trees, we must pay for these services in the form of facilities and maintenance. While the facilities provided by the City degrade over time, requiring repair and/or replacement, trees are the only part of our infrastructure that has the potential to increase in value over time. Further, ninety percent of the infrastructure services provided by our urban forest are provided by the largest trees; simply replacing a large tree with several small ones cannot recoup the services lost. Therefore, we feel it is imperative to improve our efforts to protect and preserve these Heritage Trees.

With that in mind, please consider the following recommendations as you review the draft ordinance. Please forgive me if these notes seem disorganized; such a complex document does not lend itself to easy editing. I have divided my notes into two sections. First, I will discuss some points that we think are necessary for this to be a successful ordinance that seem to be absent. Then I will mention some specific points in the current language that we would like to see changed.

Our biggest concern with the proposed draft is a lack of enforcement measures. This may have been deliberate, so that enforcement measures could be provided in rules that could be altered without the onerous task of changing the ordinance in future should problems arise. However, we feel it is vital to get some basic enforcement concepts written into the ordinance so that future rules revisions cannot be used to make the HTO irrelevant. We have two basic suggestions.

First, we would like to see a clause that requires any City inspector on a development site to issue a stop work order if required tree protection measures are not in place and intact.

Second, we would like to see a formula developed for calculating the cost of mitigation when Heritage Trees and Protected Trees are removed. The current method merely sets mitigation at \$75 per inch of Diameter at Breast Height (DBH). Though this may have been a reasonable figure when it was written, it is woefully inadequate in today's economy. A formula tied to economic indicators would increase the cost of mitigation along with inflation, thus ensuring that future developments will have to consider carefully the consequences of removing a Heritage Tree. We also believe that, in cases of willful disregard of the ordinance, mitigation should be set as the appraised value of the tree, based on accepted industry formulas.

Next, we are concerned about the current two-tier system for Heritage Trees. The draft HTO treats Heritage Trees differently depending on how large they are. Trees that are 24 inches in diameter up to 30 inches receive scant protection above the current Tree Protection Ordinance, while those larger than 30 inches get more protection. We believe all trees greater than 24 inches in diameter should get the full protection proposed in the current draft for trees larger than 30 inches.

Third, the HTO does not include any measures that would allow concerned citizens to be notified about applications to remove a Heritage Tree. We feel it is important to allow neighbors of affected properties an opportunity to offer input to City inspectors before the application is approved. We propose two avenues for such notifications: a Web site listing all pending applications for Heritage Tree removals and direct contact with neighborhood leaders such as Neighborhood Associations.

Finally, we recommend including a short list of species that would never be considered Heritage Trees. These would include any plant on a State or Federal list of non-native invasive species and a few natives that cannot be considered reliable trees once they reach the size we are discussing, such as Hackberry (*Celtis* Spp.). This would help ensure that only high-quality trees are able to achieve Heritage Tree status. We are satisfied to use rules for determining which trees are eligible for consideration, so that we can adapt the list to reflect future changes in

our ecosystem.

Beyond those general recommendations, we have specific concerns about the language used in the draft in a number of places. I have listed them according to the sections in which they appear in the draft HTO.

Sec. 25-8-602 (1) Definitions: We strongly urge that multi-stemmed trees be measured according to methods used in the current Tree Protection Ordinance (and also as a standard of measurement in the arboriculture industry). This method measures the largest stem's DBH, then adds to it half the DBH of the remaining stems. The draft HTO requires at least on single stem greater than 24" DBH before a tree can be considered a Heritage Tree.

Sec. 25-8-621 (B.) and 25-8-641 (D.): We recommend revising these sections to allow immediate removal of hazardous trees at critical risk of failure due to damage from storms, mechanical injury, etc. We would still expect the person removing such a tree to notify the City Arborist after such removals take place, both to improve tracking of such removals and to allow verification of the critical risk involved (including photos).

Sec. 25-8-624 (A)(2.): States that a Heritage Tree may be removed if it "prevents a reasonable use of the property". We find this a gaping weakness that would make the HTO virtually meaningless. Instead, we propose changing the language to "prevents *all* reasonable use of the property".

Sec. 25-8-624 (A)(4.) and 25-8-642 (1): We object to the word "dying" here. In a sense, we could consider every living thing to be "dying". We believe the other criteria provided will allow removal of a tree that is truly close to death without this measure.

Sec. 25-8-642 (C.): We would strike this section entirely. Though preserving a large number of trees is a worthy goal, we do not believe it outweighs the benefits of saving our largest trees (see my initial comments above). This ordinance is designed to preserve Heritage Trees; preserving smaller trees should be accomplished elsewhere.

Sec. 25-8-642 (D.) (1.): As it is currently written, it is not clear if "the method chosen by the applicant" refers to the type and placement of structures on the lot, the equipment used in construction, or some other method. We support the idea of requiring developers to consider alternate methods before deciding to remove a Heritage Tree, but we do not feel the current language clearly meets that goal. [NOTE: my notes from our meeting do not include this item. I know we discussed it, but perhaps we did not agree to include it in our recommendations. I apologize for the confusion, but I am rushing this out so others may view it before the Environmental Board meets tomorrow].

Sec. 25-8-626 (A.): We would remove the change to make approved permits effective immediately. We support retaining the current three-day delay between approval of a permit to remove a Heritage Tree and its effective date. This would help to avoid accidental removals of the wrong trees.

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Thank you for taking time to consider these ideas. We are excited to be part of this important ordinance, and hope the continuing public process will make it even better.

Sincerely,  
Keith Babberney  
Chair, Urban Forestry Board